

*REMARKS/ARGUMENTS**Introductory Remarks*

Applicants have carefully reviewed and considered the Office Action dated March 2, 2009, and remarks therein. In view of the Office Action, Applicants have amended claims 1 and 9 to more distinctly claim and clearly describe the subject matter of the Applicants' invention. As a result, there are now pending in prosecution amended independent claim 1 and dependent claims 2-10. Further, in view of the "final" status of the Office Action, Applicants are submitting along with this response a Request for Continued Examination and the applicable fee. Reconsideration of the pending claims in light of the amendments and the following remarks is respectfully requested.

Summary of the Office Action

The Office Action objected to claim 9 for awkward language and being hard to follow. The Office Action also rejected claims 1, 2, and 5-10 under 35 U.S.C. § 103(a) as obvious over U.S. Publication 2004/0211122 (Freythuth). Further, the Office Action rejected claims 3 and 4 as obvious over Freythuth in view of U.S. Publication No. 2004/0049988 (Reul). Lastly, the Office Action states that Applicants' prior remarks had been considered but were deemed moot in view of the new grounds of rejection.

Summary of the Claim Amendments

In view of the objection to claim 9 discussed above, Applicants have amended claim 9 to claim to more distinctly claim and clearly recite that the vehicle door includes a "first paneling" at its side distant to the motor vehicle as well as a "second paneling" at its side facing the motor vehicle interior. Amended claim 9 is in accordance with Figure 3b and the description at the last paragraph of page 5 through the first paragraph of page 6 of the original specification, which provides that the vehicle door may include both an outer skin 10 and an inner panel 11. Applicants therefore respectfully submit that the objection to claim 9 has been overcome.

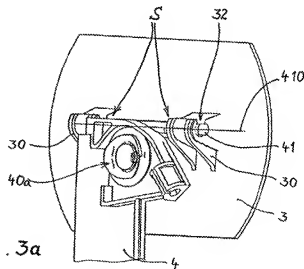
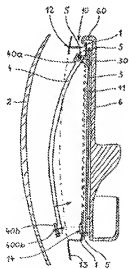
Applicants have also amended claim 1 to recite that the receiver of the module support includes at least one receiver having "a projection supporting a step-like support of the window lifting rail." This arrangement and interaction of features is described in the original specification at, for example, paragraph 26 of the published application. Claim 1 is further amended to describe

that the module support and/or the window-lifting rail includes one receiver “and additionally” the module support includes one receiver. The purpose of this amendment is to clarify that there are two separate receivers in the claimed motor vehicle door. This amendment is in accordance with the description provided at paragraphs 26 and 27 of the published specification which describes the module comprising two receivers 12a and 13. Accordingly, it is believed that the amendments to claim 1 add no new matter to the originally filed specification. Entry of the amendments and withdraw of the objection to claim 9 are respectfully requested.

Discussion of the Obviousness Rejections

Applicants respectfully traverse the obviousness rejections of claims 1-10 over the cited references to Freymuth and Reul. It is axiomatic that in order to reject a claim as obvious, the prior art reference or references as combined must teach or suggest all the features of the claim. See, e.g., M.P.E.P. § 2143. It is equally well established that in rejecting a claim as obvious one must consider all the limitations and features of the claim. See, e.g., 2143.04. Because neither Freymuth nor Reul, alone or in combination, disclose or suggest the precise arrangement and interaction of the features set forth in claim 1, those references cannot render claim 1 obvious.

Freymuth relates to a motor vehicle door construction as depicted in Figures 1 and 3a, reproduced below.



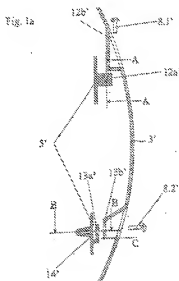
The motor vehicle door of Freymuth includes a door inner trim 6 which faces the interior of the motor vehicle and a door outer skin 2 which forms part of the exterior skin or shell of the vehicle. See, e.g., ¶ 27. The motor vehicle door between the inner trim 6 and outer skin 2 is constructed to accommodate and facilitate a vertically moving window, which is not shown in the figures. To facilitate the vertical movement of the window, in particular by providing a sliding guide support for vertically moving cables of a cable lifting mechanism, the motor vehicle door includes an elongated guide rail 4 which is attached to a module carrier 3 that is adjacent to the inner trim 6. The guide rail 4 and module carrier 3 are both oriented toward the interior of the vehicle and extend vertically in between the inner trim 6 and outer skin 2.

In accordance with Freymuth, the guide rail 4 and module carrier 3 are connected together at an upper area of the vehicle door connection via a pivotal bearing S where the pivotal axis runs horizontally and parallel to the door plane. See, e.g., ¶¶ 08 and 27. As shown in Figure 3a, to form the pivotal bearing S, the module carrier 3 includes two spaced apart bearing blocks 30 which each have an upward pointing opening 32 that forms a horizontally oriented bearing bore. See, e.g., ¶ 28. Integrally formed at the uppermost end of the elongated door rail is a horizontally oriented bearing bolt 41 which extends horizontally from either side of the guide rail parallel to the module carrier 3. See, e.g., ¶ 29. The horizontally extending bearing bolt 41 can be received and snugly fit within the openings 32 of the bearing blocks 30 that form the bearing bore. Hence, according to the construction of Freymuth, the elongated guide rail can pivotally articulate with respect to the module carrier via the bearing S between a vertical orientation and a horizontal orientation. Moreover, as depicted in Figure 3a, the guide rail when in its vertical position is situated in between and proximately enclosed within the spaced apart bearing blocks 30.

In addition to the horizontal upper pivotal bearing S, Freymuth discloses in the lower region and directly below the pivotal bearing a second fixing means 400b to attach the guide rail 4 to the module carrier 3. When the elongated guide rail 4 is pivoted to its vertical orientation, the lower fixing means is oriented horizontally with respect to, and perpendicularly directed toward, the plane of the door.

In contrast, Applicants invention as set forth in claim 1 has a different structure and operation than the horizontally-oriented, upper pivotal bearing and lower fixing means of

Freymuth. As depicted in FIG. 1, reproduced below, there is accommodated in the interior of the door a module support 5 that includes an upper receiver 12a and lower receiver 13a that can connect to the window-lifting rail 3.



The upper receiver 12a is formed as a shoulder-like projection that extends from the vertical plane of the module support 5 and includes an upwards oriented shoulder. The corresponding portion of the guide rail 3 has a step-like support 12b including a downward facing ledge. The ledge of the step-like support of the guide rail bears on the shoulder-like projection of the window lifting rail thus supporting the vertical weight forces of the window lifting rail. To fix the step-like support to the shoulder-like projection, there is a bore running in the vertical axis A that can accommodate a screwing 8.1 also oriented along the vertical axis. Though the screwing fixes the guide rail 3 with respect to the module support 5, it does not need to accommodate the vertical weight forces which instead are directed via the step-like support 12b against the shoulder-like projection 12a. An advantageous result of this construction is that the screwing is not placed under a significant tensile load and its threads will not strip through the plastic components of the window lifting rail and the module support.

In addition to the upper receiver and step-like support, the module support 5 also includes a lower receiver 13a that is formed as a pocket-like structure having a vertically oriented gap between two spaced-apart walls. The gap receives a projection 13b extending vertically downward from the window lifting rail 3. To fix those two components, a second screwing 8.2

is situated horizontally with respect to and directed perpendicularly toward the plane of the door. This pocket-like receiver provides the additional positive fit retention recited in claim 1.

As can be appreciated from the foregoing, Applicants' invention and Freymuth are structurally distinct and operate differently from one another. In Applicants' invention, set forth in claim 1, the vertical weight forces of the guide rail are transferred through the step-like support to the shoulder-like projection of the module support on which the step-like support bears. Because of this construction, the vertically oriented screwing does not need to accommodate the vertical weight forces. In Freymuth, the vertical weight forces of the guide rails are transferred to the bearing blocks by the horizontally oriented bearing bolt. All the vertical weight forces of the guide rail are transferred through and accommodated by the bearing bolt that, due to its orientation, is placed in shear against the bearing blocks.

Hence, Applicants respectfully submit that claim 1 is patently distinct from Freymuth. First, Freymuth does not disclose a step-like support of a window-lifting rail, and further does not disclose a step-like support that bears against a receiver projecting from the module support. Instead, in Freymuth, the horizontally oriented bearing bolt on the guide rail is pivotally received in the bearing blocks of the module. Second, Freymuth does not disclose a screwing running in the vertical axis that does not accommodate the vertical weight forces of the guide rail. Instead, in Freymuth, the bearing bolt is horizontal with respect to the plane of the door and must accommodate all the vertical weight forces. Moreover, one of skill would not rearrange Freymuth in such a manner that the bearing bolt is oriented in any other direction except horizontally because doing so would make it impossible to pivot the elongated guide rail with the door plane. See, e.g., M.P.E.P. § 2141.01[V]; VI] ("The proposed modification cannot render the prior art unsatisfactory for its intended purpose" and "the proposed modification cannot change the principle of operation of a reference.") Lacking disclosure of at least these two claim features, Freymuth cannot render claim 1 unpatentable.

The Office Action specifically alleges that the horizontally oriented, lower fixing means 400b of Freymuth is analogous to the claimed "screwing running in the direction of the vehicle vertical axis." Further, the Office Action states that the claim term "vertical" is interpreted broadly, in part, because the claimed orientation of the screwing is not made with respect to some other orientation and can broadly cover any orientation. Applicants respectfully submit that this is an

impermissible interpretation of the claim. The screwing is claimed as “running in the direction of the vehicle vertical axis” and thereby claimed with respect to the vertical orientation of the vehicle. Moreover, the interpretation proposed by the Office Action is contrary to one of the purposes of the claimed invention, which is to avoid having the screwing accommodate the vertical weight forces from the window lifting rail. In Freymuth, because the elongated guide rail pivots into its vertical orientation, the lower fixing means must be horizontal and directed toward the plane of the door to attach to the door inner skin. Hence, the lower fixing means of Freymuth is oriented differently and functions differently than the claimed “screwing” of the present application.

Because Freymuth does not disclose or suggest a step-like support on the guide rail that is supported by a projection from the module support or a vertically oriented screwing that does not need to accommodate the vertical weight forces, Applicants respectfully submit that claim 1 is patentable over Freymuth. Regarding dependent claims 2-10, Applicants note that if a claim depends upon another claim that is not rendered obvious by a combination of prior art references, that dependent claim can likewise not be rendered obvious. See, e.g., *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Hence dependent claims 2-10 are likewise patentable.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

/J. Karl Gross/

J. Karl Gross, Reg. No. 57,108
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6731
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

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